

REMARKS

Status of Claims

Claims 1-5, 9-12, 14-21, and 23-26 were filed in the present application. These claims have been examined. Claims 23 and 24 have been amended, Claims 1-5, 20, 21 have been canceled, and new Claims 27 and 28 have been added above. Therefore, Claims 9-12, 14-19, and 23-28 are pending in the present application.

The amended claims are fully supported in the original disclosure. In particular, support for the amendments relating to the separation of adjacent ribs in Claim 23 can be found in Figs. 2 and 4 of the drawing as originally filed. The amendments to Claim 23 relating to the lack of restriction to substantial radial expansion can be found in Figs. 1-4 of the drawing as originally filed and by implication at page 8a, lines 7-10, of the specification as originally filed which describes the expansion of a tampon in use as circular or radial.

Support for the amendments to Claim 24 can be found in corresponding language of Claim 23 from which it depends. Support for new Claim 27 can be found in Fig. 4 of the drawing as originally filed. Support for new Claim 28 can be found by implication in the specification as originally filed, particularly at page 1, lines 5-7, referring to DE 1,491,161, and page 8a, lines 7-10, as described above.

Objections

Applicants include two new drawing sheet including (1) Figs. 1-3 and 10 and (2) Figs. 8 and 9. Fig. 10 is amended to include the extension of the line from reference numeral 17. Figs. 8 and 9 are amended to extend the lines from reference numerals 12 and 13. These amendments are made in red ink. Applicants intended to include these amended drawing sheets in the last response, but apparently they were not included. Applicants apologize for this oversight.

The amendment filed on or about August 22, 1994, is objected to as introducing new matter. Prohibited new matter is that which is not found in the specification, drawings, or model, as first filed, and that involves a departure from the original invention. In re Oda, Fujii, Moriga, and Higaki, 443 F. 2d 1200, 170 U.S.P.Q. 268 (C.C.P.A. 1971). Applicants repeat their contention that the amendments merely clarified the existing disclosure of Figs. 2 and 4. Because this information existed in the original disclosure, Applicants respectfully submit that the clarification was fully supported in the original disclosure, and therefore, is not new matter. Reconsideration of this objection is earnestly solicited.

The specification is objected to for reasons fully described in previous papers. Applicants believe that they have addressed this issue by the amendment to the specification which has been objected to as new matter above. Therefore, Applicants believe that this issue has been addressed in this and in previous correspondence. Reconsideration of this objection is earnestly solicited.

Rejections of the Claims

Claims 1-5, 9-12, 14-21, and 23-26 stand rejected under 35 U.S.C. §112, first paragraph, as not being supported by an enabling disclosure and adequate written description of the invention. Applicants respectfully request reconsideration of this rejection.

Applicants' position that the originally filed figures provide basis to describe the invention in terms of two embodiments, one of which has open grooves in the final tampon product and one in which the longitudinal ribs touch adjacent ribs proximate their distal ends. In response, the Office Action indicates that there is no "explicit description in the originally filed specification which shows Applicant contemplated any groove configuration except that which is open." (Office Action pp. 5-6). First, Applicants submit that Fig. 4 supports

an embodiment in which adjacent ribs touch. Second, the specification states:

It is possible to see clearly the central fibre core 16, from which extend outwards eight longitudinal ribs 17 touching one another at their outer ends 20.

[Specification, page 7, lines 26-29, emphasis added]. The specification passages which describe the grooves as open generally relate to the preform which exists in the press jaws of Fig. 10. After the preform exits this apparatus through the reducing bushing 29 it may obtain the closed configuration illustrated in Fig. 4 and described at page 7. Reconsideration of this rejection is earnestly solicited.

Claims 1-5, 21, and 23-26 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants request reconsideration of this rejection.

The Office Action identifies language for clarification in two claims, Claim 1 and Claim 24. Applicants have canceled Claim 1-5, and 21, and they have amended Claim 24 to use terms employed in Claim 23. Applicants were not able to discern a basis for rejection of Claims 23, 25, and 26. Therefore, Applicants consider that these claims comply with 35 U.S.C. §112, second paragraph. Therefore, Applicants request that the rejection under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

Claims 1, 20, 21, 23, and 25 stand rejected under 35 U.S.C. §102 (b) as being anticipated by, or in the alternative §103 as being obvious in view of Forsman, U.S. Patent No. 4,675,217. Applicants respectfully request reconsideration of this rejection.

Claims 1, 20, 21 have been canceled, and this rejection will be addressed in view of Claims 23 and 25. The present invention relates to a tampon for feminine hygiene having a generally

cylindrical compressed, solid fiber core from which longitudinal ribs extend radially outward. Each of the ribs is compressed less than the fiber core and has a coarser capillary structure. Each of the ribs is separated from an adjacent rib by a longitudinal groove where the rib is connected to the core. The separation of the ribs is greater at their proximal end where they extend from the core than proximate their distal end, where they may even touch. The tampon is free of substantial restriction to substantial radial expansion.

Forsman discloses a tampon formed from a cylinder of web material. This web material has a first inner layer, a second intermediate layer, and a third outer layer. Each subsequent layer is formed of the same web of material which is twisted and folded or rolled over the preceding layer. The tampon can be compressed in a grooved configuration as shown in Figs. 24 and 25. Forsman does not disclose how this configuration can be obtained.

The Office Action indicates that the tampon of the left hand side of Figures 24 and 25 in Forsman is identical to that claimed in Claims 23 and 25. Applicants respectfully submit that Forsman is not a proper reference for this purpose. A reference itself must have an enabling disclosure to be used as a proper reference under §102. Ex parte Gould, 231 U.S.P.Q. 943 (B.A.P.I. 1986). The only disclosure in Forsman which Applicants could find relating in any fashion to the presently claimed invention are Figures 24 and 25 and the specification at Column 9, lines 11-20. Therefore, Applicants submit that Forsman is not a proper reference in rejecting the presently pending claims under 35 U.S.C. §§102 or 103.

Applicants were unable to determine from this disclosure in Forsman precisely how such a product could be formed. First, the cited figures of Forsman are confusing. Applicants do not understand the purpose of the distinction between the left and right hand sides of the figures. In addition, there is no apparent explanation of the arrows. The specification does not appear to help in this understanding. Therefore, Applicants will

review this reference merely as illustrated in these figures. First, Applicants respectfully submit that the product of Forsman figures 24 and 25 is not that which is presently claimed in Claims 23 and 25. In particular, these figures do not disclose either a difference in density between a core and extending ribs or a separation between adjacent ribs which is greater at their proximal end where they extend from the core than proximate their distal ends where they may indeed touch. There is no disclosure of the nature of the compression which may form such a lobed tampon. The compression may be such as to form a substantially uniform fiber density in the regions identified as fibrous in these figures or it may form regions of different fiber density. Finally, these figures reflect that there are inter-layer gaps of web material in these tampons in contrast to the substantially uniform, coarse capillary structure of the ribs of the present invention as claimed in new Claim 27. Further Forsman has nodes of increased density where the web material is twisted proximate each longitudinal end. This is in contrast to new Claim 28. Therefore, Forsman does not anticipate Claims 23 and 25 or new Claims 27 and 28.

Applicants respectfully submit that Forsman fails to render obvious presently pending Claims 23, 25, 27, and 28. The basic distinctions between these claims and Forsman is described above. Forsman fails to teach or suggest the benefits of having the density difference between the core and the outer ribs. Forsman fails to teach or disclose the desirability of having ribs which are separated more where they extend from the core than proximate their distal ends. For these reasons, Applicants respectfully submit that Forsman fails to render obvious Claims 23, 25, 27 and 28.

Claims 24 and 26 stand rejected under 35 U.S.C. §103 as being obvious in view of Forsman. Applicants respectfully request reconsideration of this rejection.

The Office Action indicates that Claims 24 and 26 claim preferred embodiments and that there is no criticality disclosed. Again, Applicants submit that Forsman is not a proper reference

in the present context. In addition, Forsman fails to teach or suggest the limitations of Claim 23 from which each of these claims depend. Therefore, Applicants respectfully request reconsideration of this rejection.

Claims 1, 20, 21, and 23-26 stand rejected under 35 U.S.C. §103 as being obvious in view of Rabell, U.S. Patent No. 2,425,004, in view of Bailey, U.S. Patent No. 2,330,257. Applicants respectfully request reconsideration of this rejection.

Again, due to the cancellation of Claims 1, 20, and 21, the present rejection will be addressed in terms of Claims 23-26 and new Claims 27 and 28. The present invention is described above.

Rabell discloses a tampon formed from a sheet of material which is pursed into a cup-like shape and then compressed. There is a longitudinal compression gradient (see column 6, lines 56-69), the finished tampon has a hollow core, (see Figures 3 and 12), and during expansion, the material tends to open up radially as though hinged at the base of the tampon (see column 7, lines 40-55). A primary purpose of Rabell is to produce a tampon which expands to form a cup-like shape.

Bailey discloses a tampon formed either from a flat sheet of absorbent material, a cup-like absorbent material, or a spirally wound absorbent material. Bailey indicates that these absorbent materials can be used to form a tampon which expands to form a cup-like absorbent structure during use. Again, the purpose of Bailey is to produce a tampon which expands to form a cup-like shape.

The Office Action indicates that Rabell discloses all claimed structure except for the solid core and that Bailey discloses that spirally wound blanks and folded blanks are equivalent in forming tampons.

Applicants respectfully submit that Rabell and Bailey fail to teach or suggest a tampon which is free from restrictions to substantial radial expansion. Both Rabell and Bailey relate to tampons which expand to form a cup-like shape. This is achieved in Rabell by the use of a flat, sheet-like absorbent material.

Bailey achieves this result in one of three ways: use of a flat, sheet-like material, formation of the absorbent material into a cup-like structure before compressing or placing into an applicator, and restricting the expansion of a spirally wound blank. Both the use of a flat absorbent material and the formation of a cup-like structure inherently restrict the radial expansion of the base of the cup or the center of the sheet by providing insufficient material to expand in a radial direction. The present invention has no such restrictions, either inherent in the flat sheet or added as disclosed in Bailey. Thus, the tampon of the present invention is free to expand radially in a substantially uniform manner along the longitudinal length of the product during use. This is significantly different than the tampon of either Rabell or Bailey. Therefore, the combination of Rabell and Bailey fails to render obvious the presently claimed invention. Reconsideration of this rejection is earnestly solicited.

In view of the foregoing amendments and remarks, Applicants respectfully submit that Claims 9-12, 14-19, and 23-28 are in proper condition for allowance. Favorable action is therefore requested.

Respectfully submitted,



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